

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FRANCISCO GONZALEZ.

Petitioner.

V.

UNITED STATES OF AMERICA,

Respondent.

Case No.: 14-CR-1445-L-1

**ORDER DENYING MOTION FOR
MODIFICATION OF TERM OF
IMPRISONMENT PURSUANT TO
18 U.S.C. § 3582(C)(2) [ECF NO 43.]**

Petitioner Francisco Gonzalez (“Petitioner”), proceeding *pro se*, filed a motion for relief of sentence pursuant to 18 U.S.C. § 3582(c)(2) requesting a reduction in the term of his custodial sentence. [ECF NO 43.] Petitioner pled guilty to one count of possession with intent to distribute methamphetamine in violation of 18 U.S.C. §§ 841(a)(1) contained in a Superceding Indictment. On April 14, 2015, this Court sentenced Petitioner to 120 months in the custody of the Bureau of Prisons, with a 5 year term of supervised release to follow.

Under Section 3582(c)(2), a Court may modify a defendant's term of imprisonment where the originally applied sentencing range has subsequently been lowered by the Sentencing Commission. 18 U.S.C. §3582(c)(2). Petitioner's motion is based upon Amendment 782 of the Sentencing Guidelines which reduces the base offense level for some drug trafficking offenses listed in the Drug Quantity Tables at U.S.S.G.

1 §§2D1.1(c) and 2D1.11 of the Sentencing Guidelines, including the offense to which
2 Petitioner pled guilty. *See* Amendment 782, Supplement to Appendix C, Amendments to
3 the Guidelines Manual.

4 Amendment 782 became effective November 1, 2014 and consequently, the
5 Guidelines applied to Petitioner's April 2015 sentence incorporated Amendment 782, as
6 indicated in the probation department's pre-sentence report, the sentencing summary
7 charts provided by both the government and Petitioner, and the Court's ultimate sentence.
8 Therefore, Petitioner is ineligible for relief because he has received the benefit of the
9 Amended Guidelines and no further reduction in his sentence is warranted under 18
10 U.S.C. §3582(c)(2). U.S.S.G. § 1B1.10(a)(2)(B). Accordingly, the Court **DENIES**
11 Petitioner's motion.

12 **IT IS SO ORDERED.**

14 Dated: May 1, 2017



15
16 Hon. M. James Lorenz
17 United States District Judge

19 COPIES TO:

20 PETITIONER

21 U.S. ATTORNEY'S OFFICE

22

23

24

25

26

27

28